



TOWN OF KITTERY

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Telephone: (207) 475-1329 Fax: (207) 439-6806

September 28, 2015

Council Chambers

Kittery Town Council
Regular Meeting
7:00 p.m.

1. Call to Order
2. Introductory
3. Pledge of Allegiance
4. Roll Call
5. Agenda Amendment and Adoption
6. Town Manager's Report
7. Acceptance of Previous Minutes – 9/14/15 Regular Meeting
8. Interviews for the Board of Appeals and Planning
9. All items involving the town attorney, town engineers, town employees or other town consultants or requested officials
10. PUBLIC HEARINGS

(090215-1)The Kittery Town Council moves to hold a public hearing on proposed amendments to Title 16 of the Kittery Town Code as listed below:

Item 1: The Kittery Town Council hereby ordains amendments to sections 16.7.8, 16.2.2, 16.3 and 16.8.11.5 of the Kittery Town Code.

- 16.7.8 Land Not Suitable for Development
- 16.2.2 definitions
- 16.3 Land Use Regulations
- 16.8.11.5 Application Procedures

Item 2: The Kittery Town Council hereby ordains amendments to section 16.8.7 of the Kittery Town Code.

- 16.8.7 Sewage Disposal

Item 3: The Kittery Town Council hereby ordains amendments to section 16.8.16.3 of the Kittery Town Code.

- 16.8.16.3 Lots

Item 4: The Kittery Town Council hereby ordains amendments to section 16.9.1.4 of the Kittery Town Code.

- 16.9.1.4 Soil Suitability

Item 5: The Kittery Town Council hereby ordains amendments to sections 16.4.4.1, 16.10.3.7, 16.10.3.8, 16.10.8.2.2 and 16.10.9.1.1 of the Kittery Town Code.

- 16.4.4.1 Inspection of Required Improvements
- 16.10.3.7 Independent Review/Inspection Review
- 16.10.3.8 Independent Review Applicant Funding
- 16.10.8.2.2 Performance Guaranty Conditions
- 16.10.9.1.1 Approved Final Subdivision Plan

Item 6: The Kittery Town Council hereby ordains amendments to section 16.7.3.5.6 of the Kittery Town Code.

- 16.7.3.5.6 Nonconforming Structure Reconstruction

Item 7: The Kittery Town Council hereby ordains amendments to section 16.5.2.4 of the Kittery Town Code.

- 16.5.2.4 Permit Period

Item 8: The Kittery Town Council hereby ordains amendments to section 16.9.1.3 of the Kittery Town Code.

- 16.9.1.3 Prevention of Erosion

11. DISCUSSION

- a. Discussion by members of the public (three minutes per person)
- b. Response to public comment directed to a particular Councilor
- c. Chairperson's response to public comments

12. UNFINISHED BUSINESS

13. NEW BUSINESS

- a. Donations/gifts received for Council disposition

(090215-2) The Kittery Town Council moves to accept a donation from York Hospital in the amount of \$9,250 to be deposited in account #5003-67500 for scholarships for the Recreation Department.

b. (090215-3) The Kittery Town Council moves to authorize the release of funds in the amount of \$1,000 from unassigned surplus and to appropriate said funds to be paid out of Account #101740-68427 Expense Self-Insurance Claims, to pay the deductible associated with damage to a police cruiser.

c. (090215-4) The Kittery Town Council moves to establish the Holiday Parade as a town event, sponsored by the Kiwanis Club of the Seacoast, to be held on Saturday, December 5, 2015 at 3:00 p.m.

d. (090215-5) The Kittery Town Council moves to approve a renewal application from Black Birch, Inc., 2 Government Street, Kittery for a Malt, Spirituous and Vinous Liquor License for The Black Birch, 2 Government Street.

- e. (090215-6) The Kittery Town Council moves to approve the disbursement warrants.

f. (090215-7) The Kittery Town Council moves to authorize a request from Fuel & More to hang a banner across Rogers Road from October 19th through November 8th for their annual event to raise funds for Kittery's Fuel & More Program.

g. (090215-8) The Kittery Town Council moves to authorize a request from the Traip Academy Athletic Boosters to hang a banner across Rogers Road from November 9th through November 14th to promote their 7th Annual Craft Fair to raise funds for the Pamela Hoyt-Sanborn Memorial Scholarship Fund.

h. (090315-9) The Kittery Town Council moves to discuss amending Title 4, Chapter 4.9 Conservation Commission and to vote to dissolve the Conservation Commission.

14. COUNCILOR ISSUES OR COMMENT

15. COMMITTEE AND OTHER REPORTS

- a. Communications from the Chairperson
- b. Committee Reports

16. EXECUTIVE SESSION

17. ADJOURNMENT

Posted: September 24, 2015

**TOWN COUNCIL MEETING
COUNCIL CHAMBERS**

**UNAPPROVED
SEPTEMBER 14, 2015**

1
2 1. Call to Order

3
4 Chairperson Thomson called the meeting to order at 7:01 p.m.
5

6 2. Introductory

7
8 Chairperson Thomson read the introductory.
9

10 3. Pledge of Allegiance

11
12 Chairperson Thomson led those present in the Pledge of Allegiance.
13

14 4. Roll Call

15
16 Answering the roll were Vice Chairperson Russell White, Councilors Frank Dennett,
17 Charles Denault, Judy Spiller and Kenneth Lemont.
18

19 5. Agenda Amendment and Adoption – None.
20

21 6. Town Manager's Report
22

23 Town Manager Puff commented on the tax rate for the 2016 fiscal year, noting that the
24 Town Assessor had estimated new growth to the tax base at approximately \$6 million, however
25 it came in over double that amount with \$12.6 million added. She stated that, as a result, they are
26 able to recommend a rate that is about eight cents less than projected which is a result of a period
27 of good building permits. Town Manager Puff stated that the Town has retained its bond rating
28 of AA++ and eight firms have submitted interest in purchasing the Town's bonds. They selected
29 the lowest rate which was offered by Financial Capital Markets.
30

31 Town Manager Puff added that they closed on permanent financing for the sewer projects
32 on September 10th with the Maine Municipal Bond Bank and repaid the outstanding note. She
33 thanked those involved for their hard work and cooperation.
34

35 Town Manager Puff announced that she had looked into the traffic issue on Wyman
36 Avenue where Shipyard commuters are going the wrong way on the one way road. She noted
37 that the Police Department has assigned special patrols to the area and they have issued ten
38 warnings so far. The Police are also aware of and are monitoring streetlight outages. Town
39 Manager Puff also had the Code Enforcement Officer (CEO) look into the sign at Stimpson and

**TOWN COUNCIL MEETING
COUNCIL CHAMBERS**

**UNAPPROVED
SEPTEMBER 14, 2015**

Government streets as a follow-up to Mr. Denault's request. Town Manager Puff added that they have purchased the supplemental insurance coverage for the Fire Department personnel as well.

Town Manager Puff discussed the traffic on the Sarah Long Bridge, noting that the lights are not currently timed but should be timed correctly once the bridge opens. Additionally, the bridge will be higher so it will open less often. She has requested an interim solution from Maine DOT for the traffic situation and they are looking into it.

Pursuant to Councilor Spiller's request, Town Manager Puff looked into the performance of the transient slips and moorings. She noted that during fiscal year 2015, they earned \$6,248.00 and from July 1st to September 4th, earned \$5,772.50. Town Manager Puff spoke with the Harbormaster who anticipates an increased revenue in the fiscal year 2016 as the facility becomes better known. Councilor Spiller noted that she would like to get together with the Port Authority in the fall to discuss how they are going to promote the facility. She added that the Kittery Point Yacht Yard is expanding their services and will have amenities that the Town of Kittery does not.

Town Manager Puff commented that the Maine DEP is coming on September 15th to review activities regarding MS4 compliance and that the Town has hired an assistant planner, Rebecca Spitko, who will start work in the first week of October. Ms. Spitko has a Master's degree in Community Planning and Development from the University of Southern Maine, dual Bachelor's degrees in Psychology and Social Work from Syracuse and an Associate's degree in Accounting.

Town Manager Puff stated that the Bike ME event was held in Fort Foster this past weekend. The participants have parked their cars here this week and will be returning on September 19th. Town Manager Puff commented on her time at the Brownfield Conference and noted that they are working on issuing a Request for Qualifications (RFQ) and invite interested bidders to review the property before the weather prohibits travel. They are also working with WILSSA to ensure that the potential bidders can perform both the cleanup and the restoration work. Town Manager Puff has also met with Sam Reid to discuss the development of the concession agreement and she has reached out to UNH for interns to help with the process.

Town Manager Puff commented that they have received seven proposals in response to the Town's Request for Proposals for the Comprehensive Plan. The Comprehensive Plan Committee has selected three firms to interview. They expect a selection to be made at the end of this month. Town Manager Puff commented on the Seaside 4-Miler and Granite State Wheelmen Seacoast Century events that will take place at the end of the month and noted that she will be attending an International City and County Management Conference in Seattle the last week of the month. Town Manager Puff announced that she is working to assemble surplus items for the

**TOWN COUNCIL MEETING
COUNCIL CHAMBERS**

**UNAPPROVED
SEPTEMBER 14, 2015**

DPW auction, including turf at the Resource Recovery Center. She added that the Maine Retirement System is refunding excess funds that cities or towns deposited with them. \$17,184.00 has been returned to the Town of Kittery.

Councilor Denault asked for an explanation on the Assessor's evaluation of the Town and the new tax growth. He also asked about the meeting that the Town Manager had with Mr. Reid, verifying that Councilor Pelletier's motion was properly recorded for the record and asked why the Port Authority workshop was cancelled. The Town Manager was unsure as to why the meeting was cancelled and Vice Chairperson White suggested that they meet before the first scheduled meeting in October. Councilor Lemont requested that they come up with an agenda for the meeting with the Port Authority, noting some topics for discussion.

7. Acceptance of previous minutes – 8/24/2015

The minutes of 8/24/2015 were accepted as amended.

8. Interviews for the Board of Appeals and Planning Board – None.

9. All items involving the town attorney, town engineers, town employees or other town consultants or requested officials

(090115-1) The Kittery Town Council moves to establish an overlay amount of \$131,928.00, resulting in a mill rate of 0.1567 mills, and to charge an interest rate of 7% per annum on past due accounts and an interest rate of 3% on overpayment of property taxes, and confirms the dates of October 31, 2015, February 15, 2016 and May 31, 2016, as the due dates for property and personal property taxes.

Paul McKenney, Town Assessor, noted that when appraising homes, they use a value on the building permit and reappraise the value once they are out in the field. Councilor Denault asked Mr. McKenney about his experience with the Vision Government Solutions software. Mr. McKenney responded that he used to work for them and is very familiar with the software. Councilor Denault commented on the lower tax rate being a benefit of the Town's overreaching. Mr. McKenney responded that it was not overreaching, it was relying on a value on a building permit application. Mr. McKenney commented that the total taxable went up about \$12,000 and he is recommending a rate of \$15.67 per thousand which gives an overlay of \$131,928.00. Vice Chairperson White asked what an overlay is and Mr. McKenney responded that it is money that is put in to allow for unknowns for people filing for abatements. Vice Chairperson White noted that there were three or four different proposals and that the one that was recommended had the lowest rates. He asked if the overlay is sufficient for the Town's needs. Mr. McKenney responded that abatements in prior years have been fairly low, around \$13,000, and this allows

**TOWN COUNCIL MEETING
COUNCIL CHAMBERS**

**UNAPPROVED
SEPTEMBER 14, 2015**

for the Homestead Reimbursement. He added that if the overlay is not used it goes back into the general fund.

Councilor Denault asked about the Homestead and whether it was worth applying for. Mr. McKenney responded that it is worth applying for and can give residents a \$10,000 reduction in property value. He noted that the applications are at the Town Office and on the Town website. Councilor Denault clarified that the Homestead is an application for people in the Town to have a chance at reducing their property value by \$10,000 and, in turn, reducing their property taxes by about \$156.00. Councilor Denault asked the Town Manager about the mill rate. The Town Manager noted that the budget is different than the mill rate and that they had predicted a rate of about 1574 this year.

COUNCILOR DENNETT MOVED FOR AN OVERLAY AMOUNT OF \$131,928.00 WHICH RESULTS IN MILL RATE OF 0.1567 MILLS, CHARGE AN INTEREST RATE OF 7% PER ANNUM ON PAST DUE ACCOUNTS AND PAY AN INTEREST RATE OF 3% ON OVERPAYMENT OF PROPERTY TAXES AND CONFIRM THE CONTINUING PAYMENT DATES OF OCTOBER 31ST, 2015, FEBRUARY 15TH, 2016 AND MAY 31ST, 2016. COUNCILOR SPILLER SECONDED THE MOTION.

Councilor Denault commented that for those who pay their taxes at the Town Hall, if the office closed on the day that they are due then they can pay on the following Monday. A discussion ensued between Councilor Lemont and Mr. McKenney regarding amounts on building permits and the difference between a BETE and a BETR, one being an equipment reimbursement and the other a program for certain property not included as taxable.

A ROLL CALL WAS TAKEN WITH ALL IN FAVOR. MOTION PASSED 5-0.

10. PUBLIC HEARINGS

a. (090115-1) The Kittery Town Council moves to hold a public hearing on a renewal application from Delta Amusement Inc., 182 State Road, Kittery, for a Special Activity Amusement Permit for the Navy Yard Bar & Billiard, 182 State Road.

Vice Chairperson White opened the public hearing and hearing none closed it.

COUNCILOR SPILLER MOVED TO APPROVE A RENEWAL APPLICATION. COUNCILOR SPILLER SECONDED THE MOTION FROM DELTA AMUSEMENT INC., 182 STATE ROAD, KITTERY, FOR A SPECIAL ACTIVITY AMUSEMENT

**TOWN COUNCIL MEETING
COUNCIL CHAMBERS**

**UNAPPROVED
SEPTEMBER 14, 2015**

**PERMIT FOR THE NAVY YARD BAR & BILLIARD, 182 STATE ROAD.
COUNCILOR LEMONT SECONDED THE MOTION.**

A ROLL CALL WAS TAKEN WITH ALL IN FAVOR. MOTION PASSED 5-0.

b. (090115-2) The Kittery Town Council moves to hold a public hearing on a renewal application from the Cajun Lobster LLC, 90 Pepperrell Road, Kittery Point, for a Special Activity Amusement Permit for the Cajun Lobster, 90 Pepperrell Road.

Vice Chairperson White opened the public hearing and hearing none closed it.

**COUNCILOR LEMONT MOVED TO APPROVE THE RENEWAL APPLICATION
FROM THE CAJUN LOBSTER LLC, 90 PEPPERRELL ROAD, KITTERY POINT,
FOR A SPECIAL ACTIVITY AMUSEMENT PERMIT FOR THE CAJUN LOBSTER, 90
PEPPERRELL ROAD. COUNCILOR SPILLER SECONDED THE MOTION.**

A ROLL CALL WAS TAKEN WITH ALL IN FAVOR. MOTION PASSED 5-0.

c. (090115-3) The Kittery Town Council moves to hold a public hearing on an application from Bagel Caboose II LLC., 20 High Pasture Road, Kittery Point, for a Victualer's License for the Bagel Caboose, 176 State Road.

Vice Chairperson White opened the public hearing and hearing none closed it.

**COUNCILOR SPILLER MOVED TO APPROVE THE APPLICATION FROM BAGEL
CABOOSE II LLC., 20 HIGH PASTURE ROAD, KITTERY POINT, FOR A
VICTUALER'S LICENSE FOR THE BAGEL CABOOSE, 176 STATE ROAD. VICE
CHAIRPERSON WHITE SECONDED THE MOTION.**

Councilor Lemont asked if the business had changed ownership and Town Clerk Maryann Place confirmed that they had.

A ROLL CALL WAS TAKEN WITH ALL IN FAVOR. MOTION PASSED 5-0.

d. (090115-4) The Kittery Town Council moves to hold a public hearing on an application from Morrison's Lobsters LLC., 11 Badgers Island West, Kittery, for a Victualer's License for the Morrison's Lobsters, 11 Badgers Island West.

Vice Chairperson White opened the public hearing and hearing none closed it.

**TOWN COUNCIL MEETING
COUNCIL CHAMBERS**

**UNAPPROVED
SEPTEMBER 14, 2015**

COUNCILOR SPILLER MOVED TO APPROVE THE APPLICATION FROM MORRISON'S LOBSTERS LLC., 11 BADGERS ISLAND WEST, KITTERY, FOR A VICTUALER'S LICENSE FOR THE MORRISON'S LOBSTERS, 11 BADGERS ISLAND WEST. COUNCILOR LEMONT SECONDED THE APPLICATION.

Councilor Lemont asked if the business had changed ownership and Town Clerk Maryann Place responded that this was their first license application.

A ROLL CALL WAS TAKEN WITH ALL IN FAVOR. MOTION PASSED 5-0.

e. (090115-5) The Kittery Town Council moves to hold a public hearing on an application from William M. and Lois A. Widi, 34 Sandy Hill Lane, Eliot, Maine, for a Victualer's License for the BBQ Barn, 181 State Road.

Vice Chairperson White opened the public hearing and hearing none closed it.

COUNCILOR SPILLER MOVED TO APPROVE AN APPLICATION FROM WILLIAM M. AND LOIS A. WIDI, 34 SANDY HILL LANE, ELIOT, MAINE, FOR A VICTUALER'S LICENSE FOR THE BBQ BARN, 181 STATE ROAD. VICE CHAIRPERSON WHITE SECONDED THE MOTION.

Councilor Lemont asked what the application fee was since it was not listed. Town Clerk Maryann Place responded that it was \$50.00.

A ROLL CALL WAS TAKEN WITH ALL IN FAVOR. MOTION PASSED 5-0.

f. (090115-6) The Kittery Town Council moves to hold a public hearing on proposed amendments to Section 2.14 and 6.06 of the Kittery Town Charter for the November 3, 2015 Election.

Vice Chairperson White noted that the amendments had been approved in the June election but the vote was not valid due to a low voter turnout. Vice Chairperson White opened the public hearing and hearing none closed it.

COUNCILOR LEMONT MOVED TO APPROVE THE PROPOSED AMENDMENTS TO SECTION 2.14 AND 6.06 OF THE KITTERY TOWN CHARTER FOR THE NOVEMBER 3, 2015 ELECTION. VICE CHAIRPERSON WHITE SECONDED THE MOTION.

**TOWN COUNCIL MEETING
COUNCIL CHAMBERS**

**UNAPPROVED
SEPTEMBER 14, 2015**

Councilor Spiller asked for an explanation of what the amendments are. Town Manager Puff responded that it involves the proposal of advertising for public notices on the Town website, in the Town Office, at the KCC and at other Kittery offices to save the expenses associated with using newspapers to publish the notices.

A ROLL CALL WAS TAKEN WITH ALL IN FAVOR. MOTION PASSED 5-0.

g. (090115-7) The Kittery Town Council moves to hold a public hearing in accordance with Section 6.11 (2) of the Kittery Town Charter and hereby ordains a multi-year license between the York Water District and the Town of Kittery, for communications equipment to be located on a tower at Mt. Agamenticus.

Vice Chairperson White opened the public hearing and hearing none closed it.

VICE CHAIRPERSON WHITE MOVED TO APPROVE A MULTI-YEAR LICENSE BETWEEN THE YORK WATER DISTRICT AND THE TOWN OF KITTERY, FOR COMMUNICATIONS EQUIPMENT TO BE LOCATED ON A TOWER AT MT. AGAMENTICUS. COUNCILOR SPILLER SECONDED THE MOTION.

Councilor Dennett asked why it was necessary to have a transmitting facility on a mountain. Kittery Fire Chief Dave O'Brien responded that communications are done by height and the higher you are the better. He added that Mount Agamenticus is the highest point in southern Maine and it would allow for the Town to have improved communications systems. Chief O'Brien noted that the new facility would also support a combined regional dispatch and would speed up radio transmission. Councilor Dennett asked if it would result in 100% radio coverage of Kittery and Eliot. Chief O'Brien responded it would definitely improve communications but they cannot be sure of the exact improvement until they are up there. A discussion ensued between Councilor Dennett and Chief O'Brien regarding other tower locations, a backup generator for power at the facility, equipment storage at the facility and who will have access to the new communications. Chief O'Brien commented that it would only be for emergency uses including ambulance, Police and Fire. Councilor Dennett responded that he would prefer that it did not exclude Public Works and sewer. Councilor Dennett and Chief O'Brien then went on to discuss a microwave facility and certain contract provisions such as subletting the space, liability insurance, worker's compensation and the security deposit. Councilor Dennett commented that the contract allowed for a renewal with 10 months advance notice, suggesting that they change that to 90 days advance notice instead.

Councilor Dennett asked about a written agreement with the Kittery Water District and noted that he would like to see a non-appropriation clause and Town Manager Puff responded that she had forwarded sample language to the Water District but has not heard back yet.

**TOWN COUNCIL MEETING
COUNCIL CHAMBERS**

**UNAPPROVED
SEPTEMBER 14, 2015**

Councilor Denault commented on his support of the project and asked about a microwave facility on the top of the tower. He noted that this frequency is shared by other agencies for mutual aid which will not only benefit Kittery but Eliot as well. Councilor Denault asked about PSAP collection fees and if there was a sense of urgency for the project. He suggested that Councilor Dennett submit his concerns with the contract in writing and they discuss it at the next meeting.

COUNCILOR SPILLER MOVED TO POSTPONE THE APPROVAL OF THE MULTI-YEAR LICENSE BETWEEN THE YORK WATER DISTRICT AND THE TOWN OF KITTERY, FOR COMMUNICATIONS EQUIPMENT TO BE LOCATED ON A TOWER AT MT. AGAMENTICUS UNTIL THE FIRST MEETING IN OCTOBER. COUNCILOR DENAULT SECONDED THE MOTION.

A ROLL CALL WAS TAKEN WITH ALL IN FAVOR. MOTION PASSED 5-0.

11. DISCUSSION

a. Discussion by members of the public

Chief Dave O'Brien approached the podium to thank Councilor Denault for his work on the insurance situation for the Town of Kittery Firefighters. He commented that the department appreciates his effort.

Suzanne Johnson approached the podium to discuss the Kittery Land Trust and their use of money and funds from taxpayers and others. She noted that sanctuaries do not allow hunting and she would like the Kittery Land Trust to ban hunting on the properties that they manage in Kittery. She commented that there are several no-kill land trusts in Maine and there are non-lethal methods of animal control that can be used when deemed necessary. Ms. Johnson asked the Council to work with the Kittery Land Trust to assist them to use the money for a no-kill sanctuary and make sure that open spaces ban hunting.

Robert Harris approached the podium to comment on bicycles on the Sarah Long Bridge. He noted that although there are signs prohibiting bicycles, scooters and pedestrians, he saw a bicycle on the bridge the other day. He emphasized the safety issue with bicycles being on the very narrow bridge.

Milton Hall approached the podium to discuss the Kittery Port Authority. He commented on his belief that the Board is going in the wrong direction and that members have gone away from the rules. Mr. Hall read minutes aloud from a previous meeting and noted that he thought Ms. Philbrook was caught in the middle of the situation. He added that the discussion should have been an executive session.

Jim Forbes approached the podium to discuss the Kittery Port Authority. He commented that he was disgusted at how the last meeting went and it seemed as though the Chair was frustrated with the lack of support from police and lack of legal counsel. He noted that the Chair does all the work and that there are some members who do nothing. Mr. Forbes commented that if the Chair had delegated some of the work then the other Board members would have seen why she wanted to hold the meeting in the first place. He added that the Chair has worked hard to get the harbor working the way it should and gave an example of a squid fishing complaint. He noted that local residents tend to break the rules more than non-residents do.

c. Chairperson's response to public comments

Vice Chairperson White agreed with Chief O'Brien regarding the insurance issue and asked Ms. Johnson to direct her concerns to the Kittery Land Trust since the Town has no jurisdiction over the land. Vice Chairperson White commented to Mr. Harris that the issues at the Sarah Long Bridge should be brought to the attention of both the Kittery Police and Portsmouth Police for enforcement. Vice Chairperson White commented that the Kittery Port Authority is an interesting organization that is not subject to the jurisdiction of the Town but needs the Town's help. He noted that they need assistance administering pay and benefits for the Harbormaster.

12. UNFINISHED BUSINESS – None.

13. NEW BUSINESS

a. Donations/gifts received for Council disposition – None.

b. (090115-8) The Kittery Town Council moves to approve the disbursement warrants.

COUNCILOR SPILLER MOVED TO APPROVE THE DISBURSEMENT WARRANTS IN THE AMOUNT OF \$722,285.28. COUNCILOR DENAULT SECONDED THE MOTION.

A ROLL CALL WAS TAKEN WITH ALL IN FAVOR. MOTION PASSED 5-0.

c. (090115-9) The Kittery Town Council moves to approve a renewal application from Divine Cuisines LLC, 20 Walker Street, Kittery for a Malt, Spirituous and Vinous Liquor License for Tulsi, 20 Walker Street.

**TOWN COUNCIL MEETING
COUNCIL CHAMBERS**

**UNAPPROVED
SEPTEMBER 14, 2015**

VICE CHAIRPERSON WHITE MOVED TO APPROVE A RENEWAL APPLICATION FROM DIVINE CUISINES LLC, 20 WALKER STREET, KITTERY FOR A MALT, SPIRITUOUS AND VINOUS LIQUOR LICENSE FOR TULSI, 20 WALKER STREET. COUNCILOR SPILLER SECONDED THE MOTION.

A ROLL CALL WAS TAKEN WITH ALL IN FAVOR. MOTION PASSED 5-0.

d. (090115-10) The Kittery Town Council moves to appoint Maryann Place as Acting Town Manager from September 24th through October 1st during the Town Manager's attendance at the ICMA Conference.

VICE CHAIRPERSON WHITE MOVED TO APPOINT MARYANN PLACE AS ACTING TOWN MANAGER FROM SEPTEMBER 24th THROUGH OCTOBER 1ST DURING THE TOWN MANAGER'S ATTENDANCE AT THE ICMA CONFERENCE. COUNCILOR DENNETT SECONDED THE MOTION.

Councilor Dennett asked Maryann Place if she was acting on her own will. Ms. Place responded that she was.

A ROLL CALL WAS TAKEN WITH ALL IN FAVOR. MOTION PASSED 5-0.

e. (090115-11) The Kittery Town Council moves to amend Title 11 General Assistance Appendices A-D for the period of October 1, 2015 – September 30, 2016, as required and provided by the State of Maine.

COUNCILOR DENNETT MOVED TO AMEND TITLE 11 GENERAL ASSISTANCE APPENDICES A-D FOR THE PERIOD OF OCTOBER 1, 2015 – SEPTEMBER 30, 2016, AS REQUIRED AND PROVIDED BY THE STATE OF MAINE. COUNCILOR SPILLER SECONDED THE MOTION.

A ROLL CALL WAS TAKEN WITH ALL IN FAVOR. MOTION PASSED 5-0.

f. (090115-12) The Kittery Town Council moves to approve an application for a Pole Location Permit from Central Maine Power and Northern New England Telephone Operations, LLCNH, to install eight new poles starting at the intersection of Dennett Road and Ranger Drive.

COUNCILOR SPILLER MOVED TO APPROVE AN APPLICATION FOR A POLE LOCATION PERMIT FROM CENTRAL MAINE POWER AND NORTHERN NEW ENGLAND TELEPHONE OPERATIONS, LLCNH, TO INSTALL EIGHT NEW POLES

**TOWN COUNCIL MEETING
COUNCIL CHAMBERS**

**UNAPPROVED
SEPTEMBER 14, 2015**

**STARTING AT THE INTERSECTION OF DENNETT ROAD AND RANGER DRIVE.
COUNCILOR LEMONT SECONDED THE MOTION.**

A ROLL CALL WAS TAKEN WITH ALL IN FAVOR. MOTION PASSED 5-0.

g. (090115-13) The Kittery Town Council moves to schedule a public hearing on proposed amendments to Title 16 of the Kittery Town Code.

**COUNCILOR SPILLER MOVED TO SCHEDULE A PUBLIC HEARING ON
PROPOSED AMENDMENTS TO TITLE 16 OF THE KITTERY TOWN CODE FOR
MONDAY, SEPTEMBER 28, 2015. VICE CHAIRPERSON WHITE SECONDED THE
MOTION.**

A ROLL CALL WAS TAKEN WITH ALL IN FAVOR. MOTION PASSED 5-0.

14. COUNCILOR ISSUES OR COMMENT

Councilor Denault requested an executive session for the next meeting to review how State law dictates the Port Authority rules and whether anything has been done to contradict or overrule State law. Councilor Dennett commented that it is not eligible for executive session. Councilor Denault then commented on the meeting decorum at the KPA meetings and noted some comments that were made at the last meeting from the audience that were picked up by microphones. He noted that if the comments were made by a Town employee then the issue would have to be resolved by the Town Manager. Councilor Denault commented on bullying and workplace harassment, asked why the Seacoast Online reporter had not been attending the meetings and announced that hunting season is open so people should use caution when walking in the woods and wear orange.

Councilor Denault commented that if a State law is being violated then the Council must do their due diligence by looking into the issue promptly instead of waiting until the October 14th meeting. He noted his concern with postponing an important issue. Councilor Dennett discussed the process of terminating a Port Authority member. Vice Chairperson White commented that the Kittery Port Authority is an unusual entity in the Town and has to deal with many different points of view. Councilor Denault clarified that he was not suggesting that anyone on Port Authority did anything wrong and that it is a matter of interpretation of a memorandum created by the prior Chair of the KPA which could be in violation of State statute. He requested an executive session again for the next meeting to rectify the situation. Councilor Spiller suggested that Councilor Denault speak with the Town Manager and Town Attorney first.

**TOWN COUNCIL MEETING
COUNCIL CHAMBERS**

**UNAPPROVED
SEPTEMBER 14, 2015**

Councilor Lemont commented on a property on Route 1 across from When Pigs Fly that is uninhabited. He noted that neighbors have been asking what is going on with the building and have made comments that people are using the vacant building to live in. The Town Manager responded that they discussed the property in executive session and she has heard that the property is under consideration for redevelopment. She noted that people who are walking around the site might be associated with the exploration of redevelopment. Councilor Lemont thanked the Town for their work filling potholes and asked about a potential Citizen of the Year Award, which he noted would be a good positive thing for the community. Councilor Lemont commented that he agreed with Mr. Hall regarding the KPA and that the Board has diverse personalities and the authority is not heading in the right direction. He would like to be vigilant in helping them.

Vice Chairperson White commented that there is training available for board members that might be useful for KPA Board members and noted that a diverse population is being served by the KPA which takes different views on different subjects. Councilor Spiller noted that the Maine Municipal Association holds trainings and that the Council could encourage the KPA Board members to attend the training.

Councilor Lemont asked to move on the Citizen of the Year Award and asked about Kittery's oldest living resident. Ms. Place noted that she had passed away and that her daughter needs some time to grieve before discussing anything with the Town. Vice Chairperson White asked about the status of the new KCC sign and the Town Manager replied that it is on order and should be here soon. Vice Chairperson White commented that he had an email requesting an ordinance committee meeting. The Town Manager responded that it is scheduled for September 22nd at 6:00 p.m. Councilor Denault stated that he wanted to make it clear to the public that when they started revamping and restructuring the KPA to get it on track they made tremendous strides. He noted that the volunteers on the KPA are doing a great job and that there are just some policy issues to be addressed.

15. COMMITTEE AND OTHER REPORTS – None.

16. EXECUTIVE SESSION – None.

17. ADJOURNMENT

**COUNCILOR LEMONT MOVED TO ADJOURN, SECONDED BY
COUNCILOR DENNETT WITH ALL IN FAVOR. MEETING ADJOURNED AT 8:58
P.M.**

Planning Board Public Hearing Public Noticing requirement for Title 16 Code Amendments
September 28, 2015 Town Council Public Hearing

Item	Code Amendment	Public Hearing held	Advertised (Portsmouth Herald)	Recommend to Council
1	16.7.8 Land Not Suitable for Development 16.2.2 Definitions 16.3.2 Zone Definitions, Uses, Standards 16.8.11.5 Application Procedure	6/25/2015, 7/23/2015	Fri 6/2 & Wed 6/17	7/23/2015
2	16.8.7 Sewer System and Septic Disposal 16.2.2 Definitions	7/23/2015	Fri 7/10 & Wed 7/15	7/23/2015
3	16.8.16 Lots	7/23/2015	Fri 7/10 & Wed 7/15	7/23/2015
4	16.9.1.4 Soil Suitability	7/23/2015	Fri 7/10 & Wed 7/15	
5	16.4.4.1 Inspection of Required Improvements 16.10.3.7 Independent Review/Inspection Consultant Review (change title of section to "Independent Peer Review") 16.10.3.8 Independent Review Applicant Funding 16.10.8.2.2 Performance Guaranty Conditions 16.10.9.1 Post Approval Actions Required	3/26/2015	Fri 3/13 & Wed 3/18	3/26/2015
6	16.7.3.5.6 Nonconforming Structure Reconstruction	5/28/2015	Fri 5/15 & Wed 5/20	5/28/2015
7	16.5.2.4 Permit Period	6/25/2015	Fri 6/2 & Wed 6/17	6/25/2015
8	16.9.1.3 Prevention of Erosion 16.2.2 Definitions	7/23/2015	Fri 7/10 & Wed 7/15	7/23/2015

VENDOR: KITTEY RECREATION DEPART YORK HOSPITAL CHECK NO. 444155

INVOICE NO.	INVOICE DATE	INVOICE AMOUNT	AMOUNT PAID	DISCOUNT TAKEN	NET CHECK AMOUNT
JULY 2015	7/7	9,250.00	9,250.00	0.00	9,250.00

Acct 5003 -
[Signature]

THE FACE OF THIS DOCUMENT HAS A COLORED BACKGROUND ON WHITE PAPER

CHECK NO.	CHECK DATE	VENDOR NO.
444155	09/08/15	4620 K



Banknorth

York Hospital
15 HOSPITAL DRIVE
YORK, MAINE 03909

CHECK NO. 444155

52-7445/2112
CHECK AMOUNT
9,250.00

PAY TO THE ORDER OF
Nine Thousand Two Hundred Fifty And 00/100 Dollars
KITTEY RECREATION DEPARTMENT
120 ROGERS RD
KITTEY, ME 03904



[Signature]
MP

TWO SIGNATURES REQUIRED FOR AMOUNTS OVER \$5000

SECURITY FEATURES INCLUDED. DETAILS ON BACK.

1144445511 211274501 799903101311

Payee: Kittery, Town Of
Company: MMA Property and Casualty

Policy #: 31130-2015

Adjuster: DMARQUIS
Invoice #:

Check Number: 43653
Check Date: 09/15/2015
Check Total: 5,915.82
From Date:
Through Date:

Client #	Loss Date	Claim #	Claimant Name	L-O-B	Comment	Payment Transaction	Amount
0031130	07/26/2015	216P6202	Town of Kittery	CL		104 Non-Total Loss	5,915.82

THIS CHECK IS PRINTED WITH A BLUE BACKGROUND, CONTAINS MICROPRINTING ON THE FACE, UV FIBERS AND AN ARTIFICIAL WATERMARK ON THE BACK.



Maine Municipal Association

Property & Casualty Pool
PO Box 9109
Augusta, ME 043329109

52-7438
2112

Bangor Savings Bank

3 State Street
Bangor, ME 04402

043653

DATE CHECK NO.
09/15/15 43653

NOT VALID AFTER 1 YEAR FROM DATE

AMOUNT

\$5,915.82

Claimant: 216P6202 Town of Kittery 0031130

PAY **FIFTY NINE HUNDRED FIFTEEN DOLLARS AND 82/100**

TO THE
ORDER OF Kittery, Town Of
Attn: Maryann Place
200 Rogers Rd
Kittery, ME 03904

Second Signature required if amount over \$20,000

⑈43653⑈ ⑆211274382⑆ 4020011230⑈

STEVE'S AUTO BODY

"Frame & Unibody Specialist"

280 BEECH RD ELIOT, ME 03903 Tel: 207 439-3561 Fax: 207 439-1497

Guaranteed Paint Matching

INVOICE NO 9311

01/Sep/2015

Owner**KITTERY, TOWN OF**To: KITTERY, TOWN OF
200 ROGERS ROAD
KITTERY ME 03904

A/C No : POLICE #5

Claim No 216 P6202**Licn No.****1089**

Vehicle FORD
Year/Model 15 EXPLORER POLICE INTERCPT 4 D
Est No. 8465
Job No. 4741
Assessor MAINE MUNICIPAL
Ass Date 7/27/2015
Inv Date 8/6/2015
VIN 1FM5K8AR0FGA35158
Mileage 25528

<u>Cat</u>	<u>Description</u>	<u>Parts</u>	<u>Labor</u>	<u>Ref</u>	<u>Mat</u>	<u>Sub</u>	<u>Amount</u>
1. R&R	Cvr,Front Bumper Uptr OEM	488.02	1.30	3.60			
2. R&R	Cvr,Front Bumper Lwr OEM	216.70	0.70				
3. R&R	Reinf,Front Bumper OEM	266.55	0.40				
4. PRT	Defl,Front Bumper Lwr OEM	151.52					
5. R&R	Frame,Licence Plate OEM	27.55	0.20				
6. R&R	Grille Assembly OEM-4 PIECES	929.51	1.00	2.00			
7. PRT	Grille Emblem OEM	55.90					
8. R&R	Panel,Radiator Supt OEM	366.67	8.50				
9. PRT	Defl,Radiator Lwr Air OEM	62.88					
10. PRT	R/R Condenser,A/C OEM	241.57					
11. MEC	R/R Pipe,Exhaust OEM	271.57	0.60				
12. PRT	R/R Seal,Exhaust OEM	4.28					
13. PRT	R/R Seal,Exhaust OEM	11.98					
14. PRT	Shield,Front Splash LT OEM	164.02					
15. PRT	Shield,Front Splash RT OEM	144.55					
16. SUB	Flex Add.Material						
17. PRT	R/R Freon & Oils	38.60				12.00	
18. SUB	Recharge A/Cond.						
19. SUB	E.P.C.					129.95	
20. SUB	4 Wheel Alignment					5.00	
21. R&R	Frt Bmpr Push Bar	375.00	6.00			89.95	
22. R&R	Siren-100Watt	320.00	3.00				
23. PRT	Push Bar Blue Lamp-	150.00					
24. PRT	Misc.Hardware	24.00					
25. SUB	Shipping-Push Bar-						
26. MIS	Cut Frt Reinf. for Push Bar					50.00	
27. R&A	Lwr Bumper Grille OEM	47.20	1.00				
28. MEC	Temp Sensor OEM	12.87	0.50				
29. R&A	Temp Sensor Wiring		0.20				
			1.00				



AUTO-QUOTE

STEVE'S AUTO BODY

© Auto-Quote 1984

INVOICE NO 9311

01/Sep/2015

<u>Cat</u>	<u>Description</u>	<u>Parts</u>	<u>Labor</u>	<u>Ref</u>	<u>Mat</u>	<u>Sub</u>	<u>Amount</u>
30. PRT	Ford Pag Oil	23.98					
31. R&A	U-Channel & Temp Repair Push Bar	53.00	4.00				
32. R&A	Str.Push Bar Mounting Brackets		2.00				
33. R&A	Set Up & Measure		2.00				
34. R&A	Sir Frame Rail Ends		2.00				
35. R&A	Weld,Grind,Modify Suppt/Reinf.		2.00				
36. D&C	Sand/Denib/Clean for delivery		1.50				

ORIGINAL ESTIMATE

R&R Remove & Replace	21.10 Hrs @ 46.00 =	970.60
R&I Remove & Install		
R&A Repair & Align	13.50 Hrs @ 46.00 =	621.00
	MET SubTotal = 1591.60	
REF Refinish	5.60 Hrs @ 46.00 =	257.60
U/F Unibody Frame		
MEC Mechanical	0.80 Hrs @ 75.00 =	60.00
D&C Detail & Clean	1.50 Hrs @ 46.00 =	69.00
MIS Miscellaneous	1.00 Hrs @ 46.00 =	46.00
SUB Sublet		286.90
PRT Parts		447.92
PAINT MATERIALS \$28.00 per REF HR		156.80
BODY MATERIALS \$0.00 per R&A HR		
	SubTotal = 6915.82	
TOTAL TAX @ 0.00%		
TOTAL		6915.82

SUBTOTAL (\$) 6,915.82
TOTAL (\$) 6,915.82
LESS DEDUCTIBLE (\$) 0.00
TOTAL OWING (\$) \$6,915.82

NOTES : TERMS: PAYMENT ON INVOICE
... WE APPRECIATE YOUR BUSINESS

deductible - 1000.00
\$ 5,915.82

picked up by Ted Short 8/7/15

Kiwanis

www.kiwanis.org

September 10, 2015

Town of Kittery
Attn: Nancy Colbert Puff – Town Manager
CC: Maryann Place – Town Clerk
200 Rogers Road
Kittery, ME 03904

Dear Council Members,

The **Kiwanis Club of The Seacoast** is requesting permission from the Town to sponsor the annual Kittery Holiday Parade on Saturday – December 5, 2015 and to have the following Kiwanis Club member appointed as the Town's Official Parade Committee:

Glen Philbrook

41 Love Lane

Kittery

The parade will start at Post Office Square at 3:00pm, follow the traditional parade route through the downtown area, and conclude at the **John Paul Jones Park** with the tree lighting ceremony.

Should the case of inclement weather, we would like to have a rain date of Sunday – December 6, 2015 at 3:00 pm as the backup plan.

The **Kiwanis Club of the Seacoast** has sponsored the parade since 1994 and is looking forward to another successful community event again this year.

If you should have any questions concerning the parade, please contact Glen Philbrook at cell 603-799-8453.

Respectfully,

Daniel R Witham
Secretary
Kiwanis Club of the Seacoast
603-559-2614 w or 603-969-4694 c

Kiwanis Club of the Seacoast PO Box 285, Kittery, ME 03904
Frank Dennett – President Glen Philbrook – Immediate Past President
Dan Witham – Secretary Kim Marsh - Treasurer

**BUREAU OF ALCOHOLIC BEVERAGES
DIVISION OF LIQUOR LICENSING & ENFORCEMENT
8 STATE HOUSE STATION
AUGUSTA, ME 04333-0008**



Promise by any person that he or she can expedite a liquor license through influence should be completely disregarded.

To avoid possible financial loss an applicant, or prospective applicant, should consult with the Division before making any substantial investment in an establishment that now is, or may be, attended by a liquor license.

DEPARTMENT USE ONLY

LICENSE NUMBER:

CLASS:

DEPOSIT DATE

AMT. DEPOSITED:

BY:

CK/MO/CASH:

PRESENT LICENSE EXPIRES 11/27/15

INDICATE TYPE OF PRIVILEGE: ☒ MALT ☒ SPIRITUOUS ☒ VINOUS

INDICATE TYPE OF LICENSE:

☒ RESTAURANT (Class I,II,III,IV)

☒ HOTEL-OPTINONAL FOOD (Class I-A)

☒ CLASS A LOUNGE (Class X)

☒ CLUB (Class V)

☒ TAVERN (Class IV)

☐ RESTAURANT/LOUNGE (Class XI)

☐ HOTEL (Class I,II,III,IV)

☐ CLUB-ON PREMISE CATERING (Class I)

☐ GOLF CLUB (Class I,II,III,IV)

☐ OTHER: _____

REFER TO PAGE 3 FOR FEE SCHEDULE

ALL QUESTIONS MUST BE ANSWERED IN FULL

1. APPLICANT(S) —(Sole Proprietor, Corporation, Limited Liability Co., etc.) Black Birch, Inc. DOB: 07/23/12	2. Business Name (D/B/A) The Black Birch
DOB:	
DOB:	Location (Street Address) 2 Government St
Address 2 Government St	City/Town Kittery State ME Zip Code 03904
	Mailing Address 2 Government St
City/Town Kittery State ME Zip Code 03904	City/Town Kittery State ME Zip Code 03904
Telephone Number 2077032294 Fax Number eat@theblackbirch.com	Business Telephone Number 2077032294 Fax Number eat@theblackbirch.com
Federal I.D. # 461023520	Seller Certificate # 1159546

3. If premises is a hotel, indicate number of rooms available for transient guests: NA

4. State amount of gross income from period of last license: ROOMS \$ NA FOOD \$ 710,570.00 LIQUOR \$537,701.00

5. Is applicant a corporation, limited liability company or limited partnership? YES ☒ NO ☐

If YES, complete Supplementary Questionnaire

6. Do you permit dancing or entertainment on the licensed premises? YES ☐ NO ☒

7. If manager is to be employed, give name: _____ NA _____

8. If business is NEW or under new ownership, indicate starting date: NA

Requested inspection date: _____ Business hours: 3:30-11:00pm

9. Business records are located at: 2 Government St, Kittery, ME 03904

10. Is/are applicants(s) citizens of the United States? YES ☒ NO ☐

11. Is/are applicant(s) residents of the State of Maine? YES ☒ NO ☐

12. List name, date of birth, and place of birth for all applicants, managers, and bar managers. Give maiden name, if married:
Use a separate sheet of paper if necessary.

Name in Full (Print Clearly)	DOB	Place of Birth
Gavin Beaudry	03/26/81	Nashua, NH
Benjamin Lord	09/13/77	Calais, ME
Jake Smith	11/20/75	Pawtucket, RI
Residence address on all of the above for previous 5 years (Limit answer to city & state)		
Gavin Beaudry- Kittery, ME Benjamin Lord- Dover, NH Jake Smith- York, ME		

13. Has/have applicant(s) or manager ever been convicted of any violation of the law, other than minor traffic violations, of any State of the United States? YES ☒ NO ☐

Name: Benjamin Lord Date of Conviction: 10/21/05

Offense: DUI 1st Offence Location: Portsmouth, NH District Court

Disposition: Guilty

Name: Gavin Beaudry Date of Conviction: 08/21/03

Offense: Violation - Disorderly Conduct Location: Durham, NH District Court (now, Dover District)

Disposition: Guilty

14. Will any law enforcement official benefit financially either directly or indirectly in your license, if issued?
Yes ☐ No ☒ X If Yes, give name: _____

15. Has/have applicant(s) formerly held a Maine liquor license? YES ☐ X NO ☒

16. Does/do applicant(s) own the premises? Yes ☐ No ☒ X If No give name and address of owner: _____
Studio Verte, LLC 172 Pepperell Rd Kittery, ME 03905

17. Describe in detail the premises to be licensed: (Supplemental Diagram Required) See Attached

18. Does/do applicant(s) have all the necessary permits required by the State Department of Human Services?
YES ☐ X NO ☒ Applied for: _____

19. What is the distance from the premises to the **NEAREST** school, school dormitory, church, chapel or parish house, measured from the main entrance of the premises to the main entrance of the school, school dormitory, church, chapel or parish house by the ordinary course of travel? 250 yards Which of the above is nearest? Church

20. Have you received any assistance financially or otherwise (including any mortgages) from any source other than yourself in the establishment of your business? YES ☐ NO ☒

If YES, give details: _____

License #: _____



State of Maine
Bureau of Alcoholic Beverages
Division of Liquor Licensing and Enforcement

**Supplemental Information Required for
 Business Entities Who Are Licensees**

Date Filed: _____

For information required for Questions 1 to 4, this information is on file with the Maine Secretary of State's office and must match their record information. Please clearly complete this form in its entirety.

1. Exact legal name:

BLACK BIRCH, INC

2. Other business name for your entity (DBA), if any:

THE BLACK BIRCH

3. Date of filing with the Secretary of State: 07/23/12

4. State in which you are formed: MAINE

5. If not a Maine business entity, date on which you were authorized to transact business in the State of Maine: NA

6. List the name and addresses for previous 5 years, birth dates, titles of officers, directors and list the percentage ownership: (attached additional sheets as needed)

Name	Address for Previous 5 years	Date of Birth	Ownership %
BENJAMIN LORD, SECRETARY	DOVER NH	9/13/77	45
GAVIN BEAUDRY, PRESIDENT	KITTERY, ME	3/26/81	45
JAKE SMITH, VICEPRESIDENT	YORK, ME	11/20/75	10

7. Is any principal person involved with the entity a law enforcement official?

Yes ☐ No ☒

8. If Yes to Question 7, please provide the name and law enforcement agency:

Name: _____ Agency: _____

9. Has any principal person involved in the entity ever been convicted of any violation of the law, other than minor traffic violations, in the United States?

Yes ☒ No ☐

10. If Yes to Question 9, please complete the following: (attached additional sheets as needed)

Name: SEE ATTACHED


Date of Conviction: _____

Offense: _____

Location of Conviction: _____

Disposition: _____

Signature:


Signature of Duly Authorized Person

9/1/15
Date

BENJAMIN LORD
Print Name of Duly Authorized Person

If you have questions regarding the legal name or assumed (DBA) name on file with the Secretary of State's office, please call (207) 624-7752. The SOS can only speak to the information on file with their office, not the filing of this supplemental information – please direct any questions about this form to our office at the number below.

Submit Completed Forms To: Bureau of Alcoholic Beverages and Lottery
Operations Division of Liquor Licensing Enforcement
8 State House Station Augusta, Me 04333-0008
Telephone Inquiries: (207) 624-7220
Fax: (207) 287-3434
Email Inquiries: MaineLiquor@Maine.gov

9. Has/have applicant(s) or manager ever been convicted of any violation of the law, other than minor traffic violations, of any State of the United States? Yes

Name: Benjamin Lord

Offense: DUI - 1st Offence

Disposition: Guilty

Date of Conviction: 10/21/05

Location: Portsmouth, NH District Court

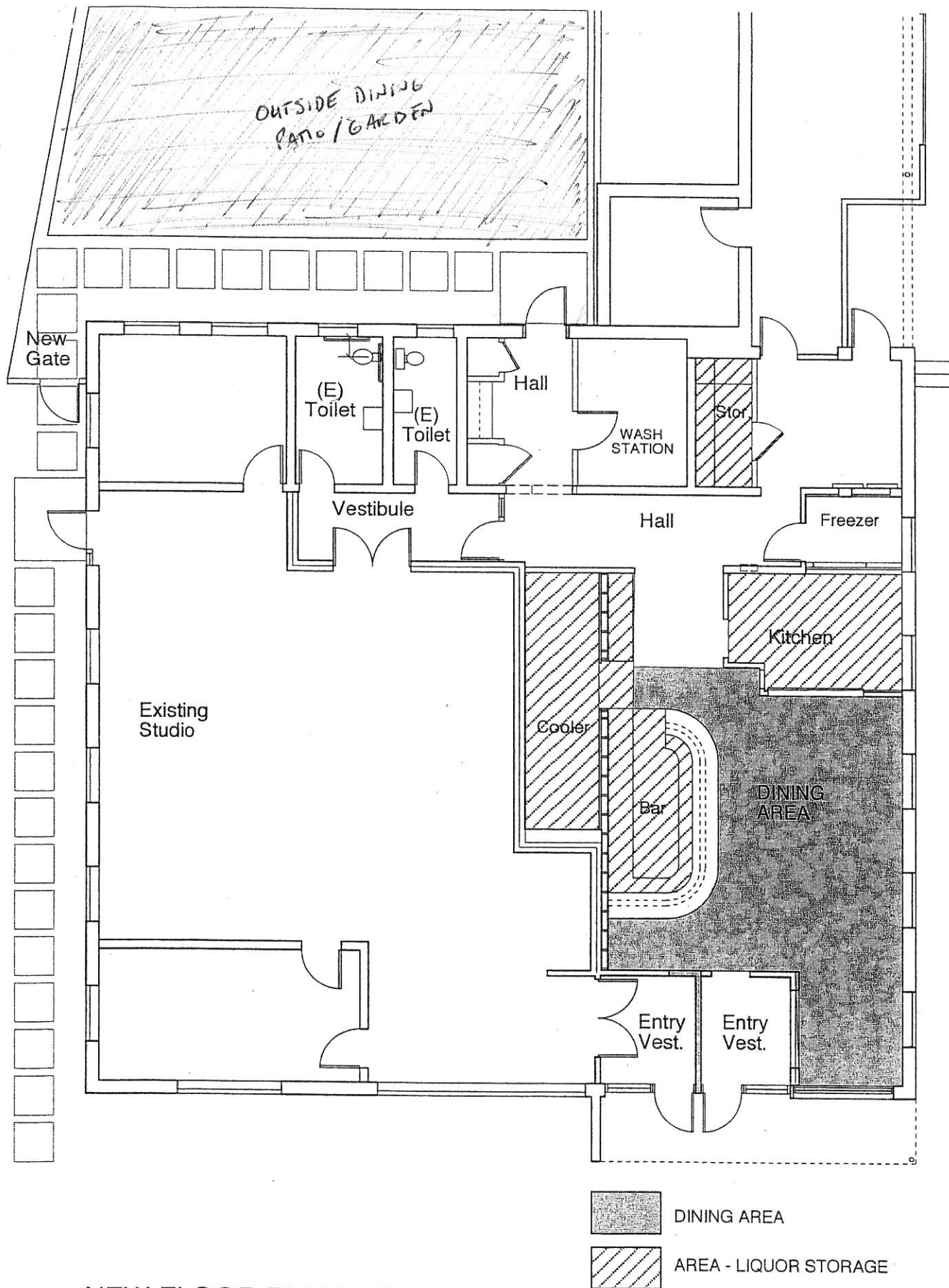
Name: Gavin Beaudry

Offense: Violation - Disorderly Conduct

Disposition: Guilty

Date of Conviction: 8/21/03

Location: Durham, NH District Court
(now Dover District)




NEW FLOOR PLAN - Restaurant
2 Government Street

The Division of Liquor Licensing & Inspection is hereby authorized to obtain and examine all books, records and tax returns pertaining to the business, for which this liquor license is requested, and also such books, records and returns during the year in which any liquor license is in effect.

NOTE: "I understand that false statements made on this form are punishable by law. Knowingly supplying false information on this form is a Class D offense under the Criminal Code, punishable by confinement of up to one year or by monetary fine of up to \$2,000 or both."

Dated at: KITTERY, ME on 9/1, 20 15
Town/City, State Date

Please sign in blue ink


Signature of Applicant or Corporate Officer(s)
BENJAMIN LORD
Print Name


Signature of Applicant or Corporate Officer(s)
GAVIN BEAUDRY
Print Name

NOTICE – SPECIAL ATTENTION

All applications for NEW or RENEWAL liquor licenses must contact their Municipal Officials or the County Commissioners in unincorporated places for approval of their application for liquor licenses prior to submitting them to the bureau.

THIS APPROVAL EXPIRES IN 60 DAYS.

FEE SCHEDULE

Class I	Spirituos, Vinous and Malt	\$ 900.00
	CLASS I: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Vessels; Qualified Caterers; OTB.	
Class I-A	Spirituos, Vinous and Malt, Optional Food (Hotels Only)	\$1,100.00
	CLASS I-A: Hotels only that do not serve three meals a day.	
Class II	Spirituos Only	\$ 550.00
	CLASS II: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; and Vessels.	
Class III	Vinous Only	\$ 220.00
	CLASS III: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Restaurants; Vessels; Pool Halls; and Bed and Breakfasts.	
Class IV	Malt Liquor Only	\$ 220.00
	CLASS IV: Airlines; Civic Auditoriums; Class A Restaurants; Clubs with catering privileges; Dining Cars; Golf Clubs; Hotels; Indoor Ice Skating Clubs; Indoor Tennis Clubs; Restaurants; Taverns; Pool Halls; and Bed and Breakfasts.	
Class V	Spirituos, Vinous and Malt (Clubs without Catering, Bed & Breakfasts)	\$ 495.00
	CLASS V: Clubs without catering privileges.	
Class X	Spirituos, Vinous and Malt – Class A Lounge	\$2,200.00
	CLASS X: Class A Lounge	
Class XI	Spirituos, Vinous and Malt – Restaurant Lounge	\$1,500.00
	CLASS XI: Restaurant/Lounge; and OTB.	

FILING FEE.....\$ 10.00

UNORGANIZED TERRITORIES \$10.00 filing fee shall be paid directly to County Treasurer. All applicants in unorganized territories shall submit along with their application evidence of payment to the County Treasurer.

All fees must accompany application, made payable to the **Treasurer of Maine**. This application must be completed and mailed to Bureau of Alcoholic Beverages and Lottery Operations, Division of Liquor Licensing and Enforcement, 8 State House Station, Augusta ME 04333-0008. Payments by check subject to penalty provided by Title 28A, MRS, Section 3-B.



STATE OF MAINE

Dated at: _____, Maine _____ SS
City/Town (County)

On: _____
Date

The undersigned being: ف Municipal Officers ف County Commissioners of the
ف City ف Town ف Plantation ف Unincorporated Place of: _____, Maine

Hereby certify that we have given public notice on this application and held public hearing thereon as required by Section 653 Title 28A, Maine Revised Statutes and hereby approve said application.

THIS APPROVAL EXPIRES IN 60 DAYS

NOTICE – SPECIAL ATTENTION

§ 653. Hearings; bureau review; appeal

1. **Hearing.** The municipal officers or, in the case of unincorporated places, the county commissioners of the county in which the unincorporated place is located, shall hold a public hearing for the consideration of applications for new on-premise licenses and applications for transfer of location of existing on-premise licenses. The municipal officers or county commissioners may hold a public hearing for the consideration of requests for renewal of licenses, except that when an applicant has held a license for the prior 5 years and a complaint has not been filed against the applicant within that time, the applicant may request a waiver of the hearing.

A. The bureau shall prepare and supply application forms. [1993, c.730, §27(amd).]

B. The municipal officers or the county commissioners, as the case may be, shall provide public notice of any hearing held under this section by causing a notice, at the applicant's prepaid expense, stating the name and place of hearing, to appear on at least 3 consecutive days before the date of hearing in a daily newspaper having general circulation in the municipality where the premises are located or one week before the date of the hearing in a weekly newspaper having general circulation in the municipality where the premises are located. [1995, c.140, §4 (amd)]

C. If the municipal officers or the county commissioners, as the case may be, fail to take final action on an application for a new on-premise license, for transfer of the location of an existing on-premise license or for renewal of an on-premise license within 60 days of the filing of the application, the application is deemed approved and ready for action by the bureau. For purposes of this paragraph, the date of filing of the application is the date the application is received by the municipal officers or county commissioners. This paragraph applies to all applications pending before municipal officers or county commissioners as of the effective date of this paragraph as well as all applications filed on or after the effective date of this paragraph. This paragraph applies to an existing on-premise license that has been extended pending renewal. The municipal officers or the county commissioners shall take final action on an on-premise license that has been extended pending renewal within 120 days of the filing of the application. [1999, c.589, §1 (amd).]

2. **Findings.** In granting or denying an application, the municipal officers or the county commissioners shall indicate the reasons for their decision and provide a copy to the applicant. A license may be denied on one or more of the following grounds:

A. Conviction of the applicant of any Class A, Class B or Class C crime: [1987, c.45, Pt.A§4 (new).]

B. Noncompliance of the licensed premises or its use with any local zoning ordinance or other land use ordinance not directly related to liquor control; [1987, c.45, Pt.A§4(new).]

C. Conditions of record such as waste disposal violations, health or safety violation or repeated parking or traffic violations on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises or other such conditions caused by persons patronizing or employed by the licensed premises that unreasonably disturb, interfere with or affect the ability of persons or businesses residing or located in the vicinity of the licensed premises to use their property in a reasonable manner; [1993, c.730, §27 (amd).]

D. Repeated incidents of record of breaches of the peace, disorderly conduct, vandalism or other violations of law on or in the vicinity of the licensed premises and caused by persons patronizing or employed by the licensed premises; [1989, c.592,§3 (amd).]

E. A violation of any provision of this Title; and [1989, c.592, §3 (amd).]

F. A determination by the municipal officers or county commissioners that the purpose of the application is to circumvent the provisions of section 601. [1989, c.592, §4 (new).]

[1993, c.730, §27 (amd).]

3. **Appeal to bureau.** Any applicant aggrieved by the decision of the municipal officers or county commissioners under this section may appeal to the bureau within 15 days of the receipt of the written decision of the municipal officers or county commissioners. The bureau shall hold a public hearing in the city, town or unincorporated place where the premises are situated. In acting on such an appeal, the bureau may consider all licensure requirements and findings referred to in subsection 2.


A. [1993, c.730, §27 (rp).]

4. **No license to person who moved to obtain a license. (REPEALED)**

5. **(TEXT EFFECTIVE 3/15/01) Appeal to District Court.** Any person or governmental entity aggrieved by a bureau decision under this section may appeal the decision to the District Court within 30 days of receipt of the written decision of the bureau.

An applicant who files an appeal or who has an appeal pending shall pay the annual license fee the applicant would otherwise pay. Upon resolution of the appeal, if an applicant's license renewal is denied, the bureau shall refund the applicant the prorated amount of the unused license fee.

Memorandum

TO: TOWN COUNCIL
FROM: MARYANN PLACE, TOWN CLERK 
DATE: SEPTEMBER 21, 2015
RE: BANNER REQUESTS

There are two requests for banners on Rogers Road on the agenda. While reviewing the dates requested, I noticed there was an issue with the dates overlapping one another. Also Council approved Kittery Point Fire's request earlier this year for a banner for Oct. 10th thru Oct. 18th for their Ham & Bean Supper. I contacted the Traip Boosters and Fuel & More and offered a proposed change to their requested dates, so everyone would be able to hang their banners, and they both agreed to the change. So please disregard the dates on their requests as the new dates will be the following:

Fuel & More – Oct. 19th thru Nov. 8th

Traip Craft Fair – Nov. 9th thru Nov. 14th

/mp



RECEIVED
SEP 15 2015

BY: _____

Council Members

Town of Kittery
200 Rogers Road
Kittery, Maine 03904

September 15, 2015

Dear Council Members:

On Sunday, November 8, 2015 from 4:00 p.m. - 8:00 p.m. we are holding a special event at the Black Birch and Buoy Gallery, "Foreside for Fuel", to raise funds for Kittery's Fuel & More program.

The Black Birch has enthusiastically come forward as our host and major sponsor for our evening event.

In addition, many of our local restaurants, especially those in the Foreside, have already voiced their willingness to donate food and we have contracted with a local band to provide entertainment.

We are requesting your approval to hang a banner across Rogers Road for the month of October through the evening of our event, November 8th. The banner will be similar in dimensions as our former banner advertising the River Dance.

Please let me know if you have any questions or concerns. I can be reached by cell: 603-498-1569 or email: lbrowning@mortgagenetwork.com.

We are very optimistic about the potential success of this event and hope you will all plan to join us.

Kind regards,


Linda J. Browning, President

Fuel & More

Cc: Maryann Place, Town Clerk
Nancy Colbert Puff, Town Manager

Maryann Place

From: The Roberts Family [shannonr02@comcast.net]
Sent: Sunday, September 13, 2015 2:42 PM
To: Maryann Place
Cc: teematt2@aol.com; wkdb4@comcast.net
Subject: Banner and roadside signs to promote the Traip Academy Athletic Booster Craft Fair

Hi MaryAnn,

I am writing to start the process of getting permission to post roadside signs (around town) and a banner (over Rogers Rd in front of the KCC) from November 1, 2015-November 14, 2015 to promote the 7th Annual Traip Academy Athletic Boosters Craft Fair. This year the craft fair will be held Saturday, November 14th, from 9 AM-2 PM, at Shapleigh Middle School. 100% of the proceeds from our craft fair funds the Pamela Hoyt-Sanborn Memorial Scholarship Fund which, each year, awards two deserving Traip Academy student athletes with \$1000 scholarships.

Our fair offers many opportunities to our community, as well as funding the scholarship. We run a food drive, which supports Footprints (last year we donated 80 lbs of non-perishable food items and over \$200!), we invite school groups to join our fair, free of charge, to promote their groups, and we welcome any student to help out to earn up to 9 hrs of community service! Last year, we also invited the Kittery Soccer Club to run the concession stand which afforded them the opportunity to raise money for their organization.

This year, we are hoping to keep the momentum going so we can continue to grow and support the community of Kittery. Thank you for your consideration.

If I remember correctly, this matter will go before the Town Council. We will be sure to have a representative there on the night it is considered. If it is possible, would you be able to email me when it is put on the agenda, as soon as you know, so we can discuss who will be available to attend?

Thanks so much!
Shannon Roberts

REPORT to the KITTERY TOWN COUNCIL

TOWN CODE TITLE 4.9 Change

1 RESPONSIBLE INDIVIDUAL: Councilor Charles Denault

Date 09/22/2015

2 Subject: Change to Title 4.9/Dissolving the Conservation Committee

3 Background:

4 Pursuant to State law and Town Code, the Conservation Committee charge is to conduct their business
5 in accordance with either the State Statute or the Town Code Title 4.9. Albeit that Kittery Town Code
6 Title 4.9 and State Statute Title 30-A, MRSA Section 3261 have a difference between the words SHALL
7 and MAY, the intent is almost similar. Many municipalities do not have a Conservation Committee. Our
8 closest neighbor, the Town of York Maine does not have one. The Kittery Conservation Committee has a
9 responsibility to perform certain functions. They fall under Roberts Rules and they are required to have
10 their agendas published, minutes created and posted and addition to following Maine's Freedom of
11 information Act, M.R.S.A. Title 1 §403. Meetings to be open to public; record of meetings. The
12 CONSERVATION COMMITTEES sole responsibility seems to be ADVISORY only. This does not suggest
13 injection of ideas during meetings unless requested.

14 There are other charges within the charge of the Conservation Committee that are also not being met.
15 The following is a list of issues that I have with the Conservation Committee and how it acts in its official
16 capacity.

17 Issues:

- 18 1. The Board has taken on a role greater then what was intended. As outlined by 16.10.5.1.4
19 Advisory Opinions. At any time during review, the Planner may request an advisory opinion from
20 the Planning Board, Conservation Commission or Port Authority, on issues related to the
21 application
 - 22 a. This does not mean Interjecting themselves in Planning board meetings i.e.
 - 23 i. Having a consistently live microphone without going to the podium
 - 24 ii. Interjecting themselves in proceedings without being called upon
- 25 2. According 16.9.3.6, Procedures for the Wetlands Alteration Application. C. Advisory Opinion.
26 The Planning Board may request the Town Planner to acquire more specific data and analysis
27 from qualified sources and/or the opinion of the Conservation Commission concerning the
28 proposed activity.
- 29 3. Failing to support decisions or recommendations by the board as a whole. i.e.
 - 30 i. No record of such previous meetings to support their statement at the planning
31 board meetings.
 - 32 ii. An appearance of a single point of view from one person instead of a committee
33 of many
- 34 4. Members consist of the following people who many of them there terms have expired according
35 to the Town website which is required to be updated regularly and is deemed an official
36 publication.

37

38

REPORT to the KITTELY TOWN COUNCIL

TOWN CODE TITLE 4.9 Change

39

Names	Term Expires
Wells, Earledean, Chair	05/31/15
Carson, Janice	08/27/16
Herbert Kingsbury	05/31/14
Moore, Donald F.	05/31/16
Hall, Stephen F.	05/31/16
Saultus, Karen	05/31/15
Bensley, Dean, Assoc.	05/31/16
Borden, Anne M., Assoc	05/31/14

- 40 5. The last official agenda published for the citizens of this town is April 15,2010
- 41 a. The Maine Statute states: The Committee will keep records of its meetings and
- 42 activities and make an annual report to the municipality.
- 43 b. The Kittery Title 4 states: The commission shall keep records of its meetings, finances
- 44 and activities and make an annual report to the municipality; and
- 45 6. The last meeting Conservation Committee minutes were published April 15, 2010.
- 46 a. The Maine Statute states: The Committee will keep records of its meetings and
- 47 activities and make an annual report to the municipality.
- 48 b. The Kittery Code Title 4 states: The commission shall keep records of its meetings,
- 49 finances and activities and make an annual report to the municipality; and
- 50 7. Since the rule change in 2010, there have been no minutes of any meetings
- 51 8. Inconsistent Verbiage.
- 52 a. Title 30-A, MRSA Section 3261 states that, unless otherwise provided under their home
- 53 rule authority, municipalities may establish conservation commissions as provided in
- 54 this section.
- 55 b. The Town Code states that, Pursuant to the provisions of Title 30-A, MRSA Section 3261,
- 56 the town council shall appoint a conservation commission for the protection and use of
- 57 the natural resources located within the territorial limits of the town.
- 58 c. **Kittery Code Title 4.9 suggests Shall and not May as in the State Statute.**
- 59 i. **Note;** The term "shall" is considered as more intense or forceful in nature
- 60 compared to "may." The past tense of "shall" is "should" while the past tense of
- 61 "may" is "might."
- 62 9. Kittery Code Title 4.9 says: Serve as an advisory body to the public works department to review
- 63 and advise, at least twice a year, at the call of the town manager, in conjunction with the
- 64 management plan and maintenance of public parks and shade trees in public parks;
- 65 a. Yet no such meetings occur or are documented.

10. Kittery Code Title 4.9 states; Have the care and superintendence of the public parks and, subject to the approval of the municipal officers, direct the expenditure of all money appropriated for the improvement of those parks.
- a. Kittery has a PARKS COMMISSION. M.R.S.A. Title 1 §403. Kittery created a PARK COMMISSION under previous law. This section does not require a municipality which has previously created a park commission under prior law to establish a conservation commission. Any such park commission previously created may continue to operate as originally established.
 - b. The previous item negates many of the responsibilities of the CONSERVATION COMMITTEE.
11. The Committee is required to keep an index of all open areas within the municipality, whether publicly or privately owned, including open marshlands, swamps and other wetlands, for the purpose of obtaining information relating to the proper protection, development or use of those open areas.
- a. In searching the Town Website, it appears that this index does not exist. If anything it is not easily obtainable or ease of access.
12. The Freedom of Information act states that Freedom of information Act, (M.R.S.A. Title 1 §403. Meetings to be open to public; record of meetings.
- a. This is not occurring and therefore may be in violation of this Law.
M.R.S.A. Title 30-A §410. Violation; *For every willful violation of this subchapter, the state government agency or local government entity whose officer or employee committed the violation shall be liable for a civil violation for which a forfeiture of not more than \$500 may be adjudged. [1987, c. 477, §6 (RPR).]*
 - b. Who is responsible?
 - i. Town Manager
 - ii. Town Council
 - iii. Conservation Committee
 - iv. The Chairperson of the Conservation Committee
 - v. The Town as a whole.
13. The requirement pursuant to M.R.S.A. Title 1 §406. Public notice
- a. Public notice shall be given for all public proceedings as defined in section 402, if these proceedings are a meeting of a body or agency consisting of 3 or more persons. This notice shall be given in ample time to allow public attendance and shall be disseminated in a manner reasonably calculated to notify the general public in the jurisdiction served by the body or agency concerned. In the event of an emergency meeting, local representatives of the media shall be notified of the meeting, whenever practical, the notification to include time and location, by the same or faster means used to notify the members of the agency conducting the public proceeding. [1987, c. 477, §4 (AMD).]
 - b. In the case of the Conservation Committee, I find that no such notices are being published.
 - c. M.R.S.A. Title 30-A §410. Violation; **For every willful violation of this subchapter**, the state government agency or local government entity whose officer or employee

REPORT to the KITTERY TOWN COUNCIL

TOWN CODE TITLE 4.9 Change

committed the violation shall be liable for a civil violation for which a **forfeiture of not more than \$500 may be adjudged.** [1987, c. 477, §6 (RPR).]

Synopsis: The Kittery Conservation Commission has not followed its charge in accordance with State law and Kittery Town Code title 4. The Conservation Committee may have violated State Law as required under the Freedom of information Act. If the evidence shows that this occurred, Council now has a duty and obligation to right this wrong and make necessary corrections in order to have the Conservation Committee fall into compliance with said laws.

Under Council Rules, Sec. 2.07. Enumeration of powers.

- (1) The council shall have the power to appoint, suspend, and remove the town manager, but suspension or removal shall be in accordance with Section 3.02 of this charter. The council shall have the power to appoint, and to remove for cause after notice and hearing, all members of boards created by statute, ordinance, this charter or by council action unless otherwise provided therein. (Amended by vote of the people 6-11-02)

Past Practice have been established by Council to dissolve a board that is no longer serving it's intend purpose or by any other reasons. Based on the above points, I feel it would be in the best interest to dissolve the Conservation Committee and reconsider the establishment of this committee if there seems to be a need for it in the future.

Recommendation:

1. Approve the changes to Kittery's Code Title 4.9, as presented
2. Recommend that if this is approved by Council, then a vote be taken to **Dissolve the Conservation Committee** which was created by Council.

ENCLOSURES:

Kittery Code TITLE 4.9 changes

1 Title 4 BOARDS, COMMISSIONS and COMMITTEES

2
3
4 Chapter 4.9 CONSERVATION COMMISSIONRESERVED

5
6 **4.9.1—Appointment-Purpose.**

7 Pursuant to the provisions of 30-A, M.R.S. §3261, the Town Council is to appoint a
8 Conservation Commission for the protection and use of the natural resources located within the
9 territorial limits of the Town.

10
11 **4.9.2—Duties.**

12 The commission is to:

13
14 A. ~~Keep an index of all open areas within the municipality, whether publicly or privately owned,~~
15 ~~including open marshlands, swamps and other wetlands, for the purpose of obtaining~~
16 ~~information relating to the proper protection, development or use of those open areas.~~

17
18 ~~The commission may recommend to the municipal officers or any municipal body or Board, or~~
19 ~~any body politic or public agency of the state, a program for the better protection, development~~
20 ~~or use of those areas, which may include the acquisition of conservation easements;~~

21
22 ~~B. Conduct research, in conjunction with the Planning Board, into the local land areas;~~

23
24 ~~C. Keep records of its meetings, finances and activities and make an annual report to the~~
25 ~~municipality; and~~

26
27 ~~D. Seek to coordinate the activities of conservation bodies organized for similar purposes.~~

28
29 **4.9.3—Powers.**

30 The Commission may:

31
32 ~~A. Make recommendations for use of land to the planning Board and park commission;~~

33
34 ~~B. Prepare and print books, charts, maps, and plans as it deems necessary;~~

35
36 ~~C. Serve as an advisory body to the public works department to review and advise, at least~~
37 ~~twice a year, at the call of the Town Manager, in conjunction with the management plan and~~
38 ~~maintenance of public parks and shade trees in public parks;~~

39
40 ~~D. With the approval of the majority of the Town Council, receive gifts in the municipality's~~
41 ~~name for any of the commission's purposes and administer the gift for those purposes, subject~~
42 ~~to the terms of the gift; acquire land or easements and trusts, and accept gifts of land or money~~
43 ~~or easements, for conservation purposes; and~~

44
45 ~~E. Develop and implement a management plan for Rogers Park with approval of the Town~~
46 ~~Council.~~

47
48 **4.9.4—Membership.**
49

50 ~~A. The town council may appoint at least three, but not more than seven, conservation~~
51 ~~commissioners. The commissioners are selected from the qualified resident voters of the town.~~
52 ~~Members are initially appointed for terms of one, two and three years, such that the terms of~~
53 ~~approximately one third of the members will expire each year. Their successors are appointed~~
54 ~~for terms of three years each. Members serve until their successors are appointed and qualified.~~
55 ~~Vacancies are filled by town council appointment for the unexpired term.~~
56

57 ~~B. The Commission may recommend to the municipal officers that associate members be~~
58 ~~appointed to assist the Commission as the Commission requires. Associate members are~~
59 ~~nonvoting members, except when a quorum is absent. Their terms of office are to be for one,~~
60 ~~two or three years. Associate members are selected from the qualified resident voters of the~~
61 ~~Town.~~
62

63 **16.9.3.6 Procedures for the Wetlands Alteration Application.**

64 C. Advisory Opinion. The Planning Board may request the Town Planner to acquire more specific data
65 and analysis from qualified sources and/or the opinion of the Conservation Commission concerning the
66 proposed activity.

67 **16.9.3.7 Wetlands Alteration Approval Criteria.**

68 C. In evaluating the proposed activity, the Planning Board may need to acquire expert advisory opinions.
69 The applicant must be notified in writing, by the Town Planner at the Planning Board's request, that the
70 applicant will bear the expenses incurred for the expert persons or agencies. The Planning Board will
71 consider the advisory opinion, including any recommendations and conditions, provided by the
72 Conservation Commission.

73 **16.10.5.1.4 Advisory Opinions.**

74 At any time during review, the Planner may request an advisory opinion from the Planning Board,
75 Conservation Commission or Port Authority, on issues related to the application. Where applications are
76 for land within wetland setbacks or the Resource Protection Overlay Zone, the Conservation Commission
77 must be invited to review and offer recommendations from an environmental protection perspective. The
78 Planner also must make recommendation on the necessity for independent review.

79 **16.10.5.2 Planner Review and Confirmation of Submittal Content - Preliminary Plan.**

80 C. Supporting documentation must include:

81 12. Town Sewage Department or community system authority letter, when sewage disposal is to be
82 through a public or community system, approving the connection and its location;
83

84 c. Additional Requirements. In its consideration of an application/plan, the Planning Board may at any
85 point in the review, require the applicant to submit additional materials, studies, analyses, and agreement
86 proposals as it may deem necessary for complete understanding of the application.
87 Such materials may include:
88

89 2. Environmental Analysis. An analysis of the effects that the development may have upon surrounding
90 lands and resources, including intensive study of groundwater, ecosystems, or pollution control systems,
91 as the Planning Board, upon review and recommendation by the Conservation Commission, may deem
92 necessary;
93

Maine Revised Statutes

Title 30-A: MUNICIPALITIES AND COUNTIES HEADING: PL 1987, C. 737, PT. A, §2 (NEW)

Part 2: MUNICIPALITIES HEADING: PL 1987, C. 737, PT. A, §2 (NEW)

Subpart 5: HEALTH, WELFARE AND IMPROVEMENTS HEADING: PL 1987, C. 737, PT. A, §2 (NEW)

Chapter 157: PARKS, TREES AND PLAYGROUNDS HEADING: PL 1987, C. 737, PT. A, §2 (NEW)

Subchapter 2: CONSERVATION COMMISSIONERS HEADING: PL 1987, C. 737, PT. A, §2 (NEW)

§3261. Conservation commissions

Unless otherwise provided under their home rule authority, municipalities may establish conservation commissions as provided in this section. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

1. Appointment of commissioners. The municipal officers may appoint at least 3, but not more than 7, conservation commissioners. Members shall initially be appointed for terms of one, 2 and 3 years, such that the terms of approximately 1/3 of the members will expire each year. Their successors shall be appointed for terms of 3 years each. Members shall serve until the appointment of their successors. The commission may recommend to the municipal officers that associate members be appointed to assist the commission as the commission requires. Associate members are nonvoting members. Their terms of office shall be for one, 2 or 3 years.

[1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

2. Duties of commission. The commission shall:

A. Keep records of its meetings and activities and make an annual report to the municipality; [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Conduct research, in conjunction with the planning board, if any, into the local land areas; [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Seek to coordinate the activities of conservation bodies organized for similar purposes; and [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. Keep an index of all open areas within the municipality, whether publicly or privately owned, including open marshlands, swamps and other wetlands, for the purpose of obtaining information relating to the proper protection, development or use of those open areas. The commission may recommend to the municipal officers or any municipal body or board, or any body politic or public agency of the State, a program for the better protection, development or use of those areas, which may include the acquisition of conservation easements.

(1) Any body politic or public agency of the State conducting planning operations with respect to open areas within a municipality having a conservation commission shall notify that conservation commission

of all plans and planning operations at least 30 days before implementing any action under that plan. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]
[1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

3. Powers of commission. The commission may:

A. Advertise, prepare, print and distribute books, maps, charts, plans and pamphlets which it considers necessary; [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

B. Have the care and superintendence of the public parks and, subject to the approval of the municipal officers, direct the expenditure of all money appropriated for the improvement of those parks; [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

C. Acquire land in the municipality's name for any of the purposes set forth in this section with the approval of the municipal legislative body; and [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

D. Receive gifts in the municipality's name for any of the commission's purposes and shall administer the gift for those purposes subject to the terms of the gift. [1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD).]

[1987, c. 737, Pt. A, §2 (NEW); 1987, c. 737, Pt. C, §106 (NEW); 1989, c. 6, (AMD); 1989, c. 9, §2 (AMD); 1989, c. 104, Pt. C, §§8, 10 (AMD) .]

4. Park commission under previous law. This section does not require a municipality which has previously created a park commission under prior law to establish a conservation commission. Any such park commission previously created may continue to operate as originally established.